

### Remarks/Arguments

Applicant has amended independent Claims 1, 2 and 20. In light of these amendments and the reasons provided below, Applicant believes the amended claims are distinguishable over the prior art.

In paragraph 3 of the Office Action, Claims 1-7, 20 and 21 are rejected under 35 U.S.C. §103(a), as being unpatentable over International Patent Publication WO 99/03323 to Wiegert (hereinafter "Wiegert"), in view of US Patent 2,777,267 to Thompson (hereinafter "Thompson") and Great Britain Patent GB2012154 to Pottinger (hereinafter "Pottinger").

The Examiner states that Wiegert discloses: a feeding and picking device for feeding and picking a crop's individual plant stalks, the device comprising: a rotating feeding element rotated about a vertical axis comprising a body with outwardly extending fingers and a picking/gathering device which separates useable parts from stalks. Applicant respectfully traverses the Examiner's statement that these elements are disclosed by Wiegert. First, Applicant would respectfully direct the Examiner to the Decision of the Appeal Board in this case. In their decision, the Board of Patent Appeals states on page 4, first full paragraph that Wiegert does **not** disclose a rotating feeding element that grasps plant stalks and directs them to a picking device. Even if Examiner were to ignore the ruling of the Appeal Board and continue to contend that Wiegert does show this, Wiegert does not show any rotating feeding element that rotates in a circle, in accordance with the claim amendments made herein. The feed chains and attached fingers of Wiegert rotate about two drive sprockets in an elongated, flattened, generally horizontal oval, not a circle, as stated in the amended claims of the present application.

The Examiner goes on to say at the top of page 4 of the Office Action that "Wiegert disclose the claimed invention including the fact that the feeding element can be substituted by any other known devices" in the second paragraph of page 4. Applicant would respectfully point out to the Examiner that the referenced paragraph in Wiegert is referring to the chopper 21, and states that the chopper may have a different construction. That paragraph does not make any reference to a feeding element. Again, Applicant would respectfully direct the Examiner to the Decision of the Appeal Board in this case. In their decision, the Board of Patent Appeals states

on page 4, first full paragraph that the chopping unit 21 of Wiegert is not a feeding element - it does not grasp plant stalks and direct the plant stalks to a picking device. Thus, Wiegert does not make a representation that there can be substitution of a different feeding element as contended. Thus, Applicant respectfully would show the Examiner that Wiegert does not disclose the rotating feeding element as stated by the Examiner, nor the fact that a different feeding element could be substituted. Thus Wiegert does not disclose or suggest, alone or in combination with Pottinger or Thompson the present invention. Thus amended independent Claims 1, 2, and 20, and Claims 3-13, 15, 17-19 and 21, which depend therefrom, are patentable over the reference of Wiegert, alone or in combination with Pottinger and/or Thompson.

The Examiner goes on to say that both Pottinger and Thompson disclose known devices for conveying the stalk, and that it would have been obvious to one of ordinary skill in the art to combine the feeding device of Pottinger and/or Thompson with Wiegert to develop the present invention. Applicant respectfully traverses the Examiner's contention. Both Pottinger and Thompson utilize and specifically claim a harvesting mechanism that utilizes a pair of rotating fingered picking devices operating side by side in conjunction with each other to gather up and direct crop into the apparatus (see, e.g., Pottinger, pg 1, lines 11-14; pg 3, lines 110-116; pg. 5, Claim 1, Ins 50-65 and Thompson, col. 2, Ins 60-70, Claim 4, col 5 ln 15- col. 6 ln 7. In contrast, the present invention discloses, and claims in independent Claims 1, 2 a mechanism that has a single rotating feeding element that operates to grasp the plant stalks and direct them to a picking device. Additionally, Applicant would respectfully point out that Thompson is for use in cutting up plants from which the crops have already been harvested (col. 1, Ins 16-20), and thus is not in the same field of art as the present invention, which is used to harvest crops and separate the usable parts from the rest of the plants. Thus nothing in Pottinger or Thompson would suggest or imply the invention of the present Application, either alone or in combination with Wiegert.

The Examiner goes on to describe devices disclosed in Thompson and Pottinger that would suggest or imply the present invention, and provides details as to what components he believes are disclosed by this prior art. The arguments in the previous paragraph differentiate the present invention from the Pottinger and

Thompson references, showing that Pottinger and Thompson disclose and claim devices with two substantially vertical pick up wheels operating in side-by-side conjunction with each other to pick up crop, whereas the present invention utilizes a single vertically-oriented fingered picking device that operates alone to direct crop. Because the Examiner has not clearly indicated which reference numerals disclose some of these additional elements, the Applicant cannot clearly and fully understand the Examiner's arguments. Although the arguments in the above paragraph clearly differentiate the present invention from Pottinger and Thompson, alone or in conjunction with Wiegert, Applicant would respectfully attempt to address the additional arguments made by Examiner to the best of Applicant's ability, given the limited information available about the Examiner's statements.

For example, the Examiner states that Thompson shows upper feeding elements (ref 37) and rotating lower feeding elements (fig 2, 3), but exactly which devices the Examiner is referring to as a lower feeding element, is not discernible from looking at Figures 2 and 3 of Thompson. The only component Applicant can see in figures 2 and 3 of Thompson that are partially below feeding element 37 is a cutting element 9, 10, 14, which does not appear to rotate. Again, Applicant would point out the Board of Appeals ruling that states that a similar chopping unit 21 in Wiegert is not a feeding element that directs plants to a picking device.

Similarly, in reference to Pottinger, the Examiner states Pottinger shows upper feeding elements (13, 14) and a lower rotating feeding element (fig. 1) beneath the upper feeding element, but again does not indicate exactly which devices the Examiner believes to be a lower feeding element, and such is not discernible from looking at Figure 1 in Pottinger, or reviewing the other figures or text, as no reference is made to any lower feeding elements. Again, Pottinger, like Thompson, discloses and claims a mechanism utilizing a pair of rotating feeding elements operating in conjunction with each other. The present invention, in contrast, utilizes a single vertically oriented shaft having a rotating fingered feeding element thereon that feeds the plant through the length of the picking device. If multiple devices are used adjacent to each other, each device operates independently separate and apart from any of its adjacent neighbors. Thus neither Pottinger or Thompson, alone or in any combination with each other and/or Wiegert disclose or suggest the device of the present invention. Thus amended independent

Claims 1, 2, and 20, and Claims 3-13, 15, 17-19 and 21, which depend therefrom, are patentable over the reference of Wiegert, alone or in combination with Pottinger and/or Thompson.

Applicant has amended independent Claims 1, 2 and 20 to more clearly differentiate the present invention from the prior art. Claims 3-13, 15, 17-19 and 21 all depend from Claims 1, 2 or 20 and therefore also overcome the prior art references. Therefore, it is believed that this application is in condition for allowance, and allowance of pending Claims 1-13, 15, 17-19 and 20-21 is respectfully requested.

In paragraph 1 of the Office Action, the Examiner indicates that the Information Disclosure Statement filed 8/27/2002 was not in compliance with 37 CFR 1.97(e) because it lacked the required statement and fee. The Information Disclosure Statement is being resubmitted with an additional statement and authorization to charge any associated fees to the specified Deposit Account.

Any fees or charges due as a result of filing of the present paper may be charged against Deposit Account 04-0525. Two duplicates of this page are enclosed.

Respectfully,

  
Attorney for Applicant(s)

Enclosure  
Supplemental Disclosure Statement

Dawn C. Wolff  
Reg. No. 48,695  
Patent Department  
Deere & Company  
One John Deere Place  
Moline, IL 61265  
Telephone No. (309) 765-4325

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